

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DON D. LOVELL,

Plaintiff,

vs.

SUPERIOR COURT OF STATE
WASHINGTON FOR BENTON AND
FRANKLIN COUNTY EMPLOYEE'S,

Defendants.

NO. CV-06-5031-FVS

ORDER DISMISSING COMPLAINT WITHOUT
PREJUDICE

1915(g)

By Order filed June 28, 2006, the court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss. Plaintiff had initiated this action while a prisoner at the Washington State Penitentiary, but was subsequently released. The court cautioned Plaintiff that failure to comply with its directive would result in dismissal of this action for failure to state a claim upon which relief may be granted. Plaintiff has filed nothing further in this action.

Specifically, in his complaint Plaintiff failed to present a causal connection between named defendants and the conduct of which he complains. See *Hamilton v. Endell*, 981 F.2d 1062, 1067 (9th Cir. 1992). Furthermore, the only named Defendant, "Superior Court of State Washington for Benton and Franklin Counties Employee's," is not

1 a "person" subject to § 1983 liability. See *Groten v. California*, 251
2 F.3d 844, 851 (9th Cir. 2001); *Will v. Michigan Dept. of State Police*,
3 491 U.S. 58, 70-71 (1989) (holding that "'arms of the State' for
4 Eleventh Amendment purposes" are not liable under § 1983); *Greater Los*
5 *Angeles Council on Deafness, Inc. v. Zolin*, 812 F.2d 1103, 1110 (9th
6 Cir. 1987) (holding that state courts are arms of the state for
7 Eleventh Amendment purposes). Although granted the opportunity to do
8 so, Plaintiff did not amend his complaint to state a claim upon which
9 relief may be granted.

10 Accordingly, for the reasons set forth above and in the Order to
11 Amend or Voluntarily Dismiss Complaint (Ct. Rec. 11), **IT IS ORDERED**
12 the Complaint is **DISMISSED without prejudice** for failure to state a
13 claim upon which relief may be granted. 28 U.S.C. §§ 1915(e)(2) and
14 1915A(b)(1).

15 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a
16 prisoner who brings three or more civil actions or appeals which are
17 dismissed as frivolous or for failure to state a claim will be
18 precluded from bringing any other civil action or appeal *in forma*
19 *pauperis* "unless the prisoner is under imminent danger of serious
20 physical injury." 28 U.S.C. § 1915(g). Plaintiff is advised to read
21 the new statutory provisions under 28 U.S.C. § 1915. This dismissal
22 of Plaintiff's complaint may count as one of the three dismissals
23 allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to
24 file future claims.

25 **IT IS SO ORDERED.** The District Court Executive is directed to
26 enter this Order, forward a copy to Plaintiff at his last known
27

1 address, enter judgment, and close the file. The District Court
2 Executive is further directed to forward a copy of this Order to the
3 Office of the Attorney General of Washington, Criminal Justice
4 Division.

5 **DATED** this 28th day of September 2006.

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7 s/ Fred Van Sickle
8 FRED VAN SICKLE
9 UNITED STATES DISTRICT JUDGE
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